

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HORACE C. HOUSTON,

Petitioner,

v.

E.K. MCDANIELS, *et al.*,

Respondents.

Case No. 3:11-cv-00438-MMD-WGC

ORDER

This Court dismissed Nevada state prisoner Horace C. Houston's habeas corpus petition with prejudice in January 2012, and judgment was entered. (ECF Nos. 15, 16.) Houston appealed, and the Ninth Circuit Court of Appeals denied a certificate of appealability. (ECF Nos. 20.) Nearly eight years after the court of appeals' decision, Houston filed a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure ("Motion"). (ECF Nos. 17, 21.) The Court will deny the Motion.

Rule 60(b) entitles the moving party to relief from judgment on several grounds, including the catch-all category "any other reason justifying relief from the operation of the judgment." Fed. R. Civ. P. 60(b)(6). A motion under subsections (b)(4)–(6) must be brought "within a reasonable time." Fed. R. Civ. P. 60(c)(1).

Here, Houston claims that difficulty in obtaining legal materials from the prison law library caused the delay in filing this Motion. Even assuming that the challenges of litigating while in prison can cause delay, this is insufficient to explain an eight-year delay. Moreover, this Court dismissed Houston's federal petition as time-barred, and he raises no new arguments that his petition was timely filed. Thus, it is unclear what further legal materials he could have needed to pursue a motion for relief from judgment. In short, Houston presents no basis for Rule 60(b) relief.

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1 It is therefore ordered that Petitioner's motion pursuant to Rule 60(b) (ECF No.  
2 21) is denied as set forth in this order.

3 It is further ordered that a certificate of appealability is denied.

4 DATED THIS 22<sup>nd</sup> day of April 2020.

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7 MIRANDA M. DU  
8 CHIEF UNITED STATES DISTRICT JUDGE  
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